

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joseph Sullivan,
Petitioner-Appellant,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0253
Parcel No. 42-093-02-0070

On December 2, 2011, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Joseph Sullivan was self-represented and requested a written consideration. The Board of Review is represented by Warren County Attorney John Criswell. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Joseph Sullivan is the owner of a residential, single-family property located at 3424 N Fernwood Drive, Cumming, Iowa. The property is a one-story, frame home, built in 2004, and has 1724 square feet of total living area. The property has a full, walk-out basement with 1100 square feet of living-quarter quality finish. Additionally, the dwelling has a 924 square-foot, attached garage; a 720 square-foot detached garage built in 2005; two open porches of 88 square feet and 166 square feet; two wood decks of 156 square feet and 548 square feet, with the larger deck also having a 103 square-foot gazebo; and a 144 square-foot concrete patio. The site is 1.13 acres.

Sullivan protested to the Warren County Board of Review regarding the 2011 assessment of \$343,700, which was allocated as follows: \$70,300 in land value and \$273,400 in improvement value. His claim was based on the following grounds: 1) that the assessment was not equitable as compared

with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b) and asserting the correct value was \$320,700; 3) that there is an error in the assessment under section 441.37(1)(d), the statement essentially asserts the property is over-assessed; and 4) that there has been a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider error or downward change as separate claims.

The Board of Review granted the protest in part by applying 15% obsolescence to the site for not having access or connection to a pond area in the subject's neighborhood. It reduced the assessment to a total value of \$333,200, allocated as \$59,800 in land value and \$273,400 in improvement value.

Sullivan then appealed to this Board, reasserting his claims of inequity and over-assessment. He now asserts the correct value is \$308,000. Sullivan did not provide an allocation of his total value.

Sullivan provided six comparable properties to the Board of Review. Information about these properties was on his protest form and in a letter dated April 24, 2011. Comparing the protest form to the letter, five of the properties can be matched up with their assessments. The sixth property remains unidentified. The following chart reflects Sullivan's information.

Parcel ID	Acres	Tax 11 year	10 year	sq. foot cost		Avg. assessed acre cost
42093010200	1.75	\$72,400	\$70,000	1.053	pond/gas	\$41,371.43 paved street
42093010010	1.35	\$71,200	\$54,000	0.826	pond/highway	\$52,740.74 gas/electric
42100170421	0.96	\$24,000	\$24,000	1.744	highway	\$24,000.00 ¹
Not provided	1.49	\$71,500	\$59,600	0.908	pond/gas	\$47,986.58
42093020100	1.54	\$50,100	\$24,500	1.339	pond/electric/gas	\$32,532.47
42093020120	2.78	\$53,200	\$25,800	2.276	pond/gas/electric	\$19,136.69

¹ Sullivan noted the average assessed acre cost as \$24,000. However, we note the correct math \$24,000 (2011 assessed value) x .96 (acres) = \$23,040.

It is difficult to determine what Sullivan is attempting to demonstrate with the information because it lacks an explanation. We assume the heading titled "sq. foot cost" is meant to reflect the total square feet of the subject site size divided by its assessed value. However, the numbers in this column do not reflect that calculation. It is unknown how Sullivan arrived at the numbers in this column. The "avg. assessed acre cost" column is the actual assessment per acre for each parcel, rather than an average. With the exception of one parcel, we find these calculations to be correct.

The subject site is 1.13 acres with a site assessment of \$59,800, *after* Board of Review adjustments. Prior to the reduction, the site was assessed for \$70,000 for the first acre and \$300 for the additional 0.13 acre. Sullivan's chart, which was created prior to the Board of Review hearing, seems to imply his site is assessed higher, per acre, than the other sites. The chart indicates these sites had assessments that ranged from roughly \$19,150 to \$52,750 per acre. However, Sullivan is not applying the same method of valuation. He is assuming each acre has equal value, but, according to the property record card, the assessor's methodology gives most consideration to the first acre. Ultimately, we give this information no consideration as it is unexplained.

Sullivan also submitted an appraisal completed by Judy Lundy of Lundy Appraisal Services, Inc., Johnston, Iowa. In his appeal to this Board, Sullivan stated the appraisal was completed for lending purposes; however, we note Lundy Appraisal lists Sullivan as the client. The appraisal has an effective date of June 8, 2011. Only the sales comparison approach was developed. In her appraisal, Lundy stated "cost and income approach applicable but not necessary to develop appraisal." Lundy identified eighteen comparable properties ranging in price from \$250,000 to \$350,000. She also identified seventeen active listings in the same price range. She included three sales in her analysis that ranged in sales price from \$284,000 to \$341,600. She did not include any listings for analysis.

The three sales occurred between June and September of 2010, so all would be considered for the January 1, 2011, assessment. Lundy makes across-the-board site adjustments stating "site

adjustments based on current site values² by Warren County Assessor as shown on web page.”

Lundy’s reliance on the assessor’s site values indicated she accepted them as reasonable.

All three sales are located within roughly one-and-a-half miles of the subject. Two are located in the subject’s development. We find the sales to be reasonable comparables. After adjustments, the values range from roughly \$295,000 to \$327,000. Lundy concludes a value opinion of \$308,000. The appraisal was not disputed by the Board of Review.

The Board of Review supplied a spreadsheet of eight land comparables.³ The spreadsheet lists the parcel number, classification, location (city), number of units, sale date, sale price, price per unit, 2011 assessment, and comments. The sales occurred between April 2010 and July 2011, with prices between \$60,000 to \$65,000, and a median sales price of \$62,500. The 2011 assessments ranged from \$38,800 to \$72,400, with a median of roughly \$40,000. However, the comments area for many of the properties indicates “no dwelling, when developed land value (increased).” Considering only the three sites already developed, the 2011 assessments are reported as ranging from \$70,600 to \$72,400, with a median of roughly \$70,900. There is no explanation of this spreadsheet. Because of the lack of explanation, we give it no consideration.

We find Lundy’s appraisal to be the best evidence of fair market value in the record.

Based on the foregoing, we find sufficient evidence has been provided to demonstrate the subject property is over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

² Lundy is referencing the assessed site value.

³ The spreadsheet also includes Sullivan’s comparables.

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Sullivan did not provide sufficient evidence to support a claim of inequity.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Sullivan submitted a professional appraisal completed by Judy Lundy. The appraisal relied on three sales from 2010 of similar ranch-style dwellings on acreage sites. We consider this the best evidence in the record regarding the fair market value of the subject property.

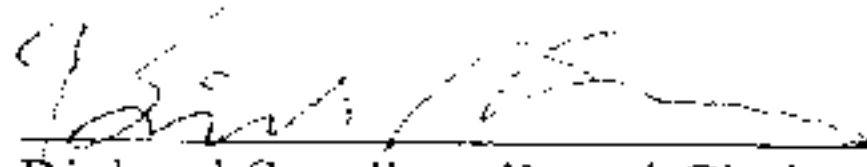
We find the evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21.

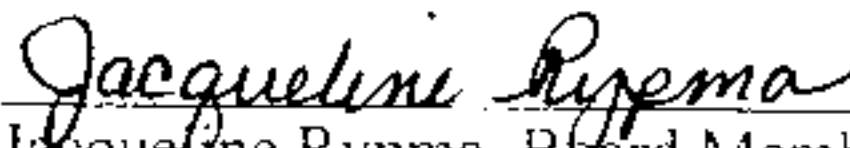
THE APPEAL BOARD ORDERS the assessment of Joseph Sullivan's property located at 3424 N. Fernwood Drive, Cumming, Iowa, be modified to a total value of \$308,000, as of January 1, 2011.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 7th day of February, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Joseph Sullivan
3424 N Fernwood Drive
Cumming, Iowa 50061-5701
APPELLANT

Brian Arnold
County Assessor
301 N Buxton, Suite 108
Indianola, Iowa 50125
REPRESENTATIVE FOR APPELLEE

John Criswell
County Attorney
301 N Buxton #301
Indianola, Iowa 50125
ATTORNEY FOR APPELLEE

Traci Vanderlinden
301 N Buxton, Suite 101
Indianola, Iowa 50125
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2/7</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	